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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/482,679	01/14/2000	Uwe Heitmann	31653-152135	7334

7590

12/10/2001

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EXAMINER

LOPEZ, CARLOS N

ART UNIT	PAPER NUMBER
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1731

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DATE MAILED: 12/10/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/482,679

Applicant(s)

HEITMANN, UWE

Examiner

Carlos Lopez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Response to Amendment

The amendment file on 10/05/01 has been entered as Paper No.7.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Orihara et al (US 5967146). Orihara discloses a shredded tobacco supplying apparatus for a cigarette-manufacturing machine (Columns 7-9). The tobacco supplying apparatus comprising of a concave-curved guide track (38); guide track having a generatrix based on a uniform generating curve created by a plurality of air flow jets (40,42,43) in conveyance with fiber stream (Fig. 3). As for claims 2-4, 6, and 7, the guide track (38) comprises of track segments having extruded sections wherein the borders of the track segments provide an upstream and down stream nozzle wall for which air jets (40,42,43) flow through. As for claim 5, a common pressure chamber (60) is connected with the plurality of air jets (40,42,43) via pressure line (104). Orihara et al anticipate claims 1-7.

Response to Arguments

Applicant's arguments filed 10/05/01 have been fully considered but they are not persuasive. Applicant argues that claim 1 is distinguished from the prior art because it does not have a low power consumption over the prior art. However, it is noted that the said features upon which applicant relies is not recited in the rejected claim(s).

Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Applicant further argues that Orihara provides a curved surface by a series of steps. However, claim 1 does not limit curved surfaces formed without steps. Hence, it is maintained that Orihara still reads on claim 1.

Applicant argues that claim 3, patentably distincts the claimed invention from the prior art because it fails to teach a downstream wall in a "steady convex curvature". However, claim 3 only broadly provides for "a wall" to be of "steady convex curvature" which as explicitly shown in figure 3 of Orihara, element 38a, is a downstream wall in a "steady convex curvature". While applicant's sought invention may possibly be to have the distal end of 38a, adjacent to the opening 40 of Orihara, be of a "steady convex curvature", Applicant is not claiming said sought invention in the present recitation of claim 3. Additionally if Applicant amends claim 3 to recite said possible sought invention, it would have been obvious to a person of ordinary skill in the art to have modified Orihara's curved surface 38a at the distal end adjacent to opening 42 to be steady convex in order to provide a more uniform fluid flow of the jet stream as is well known in fluid dynamics.

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Applicant further argues claim 6 additionally recites a plurality of individual guide tracks. Figure 3 of Orihara shows the guide track comprising of segments 38a and those segments interrupted by openings 40,42 and 44. The term "individual" does not provide an additional structure distinguishing it from Orihara.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lopez whose telephone number is (703) 605-1174. The examiner can normally be reached on Mon. - Fri. 8am-5pm (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman can be reached on (703) 308-3837. The fax phone numbers for the organization where this application or proceeding is assigned are (703)

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305-7718 for regular communications and (703) 305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0651.

C.L
December 7, 2001

Jose A. Fortuna
JOSE FORTUNA
PATENT EXAMINER